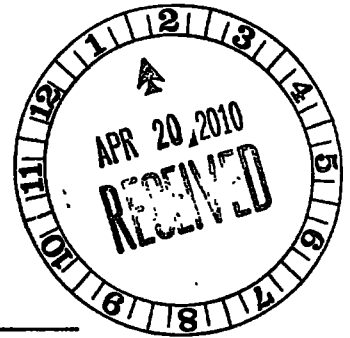


226851

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**



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**STB DOCKET NO. AB-290 (Sub- No. 311X)**

**ENTERED  
Office of Proceedings**

**APR 20 2010**

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**NORFOLK SOUTHERN RAILWAY COMPANY  
PETITION FOR EXEMPTION  
ABANDONMENT OF RAIL FREIGHT SERVICE OPERATION –  
IN THE CITY OF BALTIMORE, MD AND BALTIMORE COUNTY, MARYLAND**

**Part of  
Public Record**

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**PETITION FOR STAY OF APRIL 5, 2010 DECISION**

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1. James Riffin (“**Riffin**”), pursuant to 49 CFR 1152.25, herewith files this Petition for Stay of the Board’s April 5, 2010 decision in the above entitled proceeding, and for reasons states:

2. On April 5, 2010, the Board in the above entitled proceeding, served a decision granting Norfolk Southern Railway Company (“**NSR**”) authority to abandon its operating rights on the Cockeysville Industrial Track (“**CIT**”), and exempted the proceeding from the Offer of Financial Assistance (“**OFA**”) procedures. The Board’s Order stated the exemptions would become effective on **May 5, 2010**. The Order further stated that petitions to stay must be filed by **April 20, 2010**, and petitions to reopen must be filed by **April 30, 2010**.

3. Under 49 CFR 1152.25(e)(7), a party may petition the Board to stay an abandonment decision pending resolution of a petition to reopen or pending judicial review.

4. The Board will grant a stay in a proceeding where (a) there is a substantial likelihood that the movant will prevail on the merits, (b) the movant will be irreparably harmed absent the stay,

(c) the stay would not harm other parties, and (d) issuance of a stay is in the public interest. *Hilton v. Braunskill*, 481 U.S. 770, 776 (1987); *Washington Metropolitan Area Transit Commission v. Holiday Tours, Inc.* 559 F.2d 841, 843 (D.C. Cir. 1977); *Virginia Petroleum Jobbers Association v. FPC*, 259 F.2d 921, 925 (D.C. Cir. 1958). Moreover, the board has the power to stay its own decision without such showings on the merits where it needs additional time to consider difficult issues presented in a case. *City of Alameda - Acquisition Exemption - Alameda Belt Line*, STB Finance Docket No. 34798 (served December 15, 2005) (stay granted). Such is the case here.

5. A petition to reopen must state in detail the respects in which the proceeding involves material error, new evidence, or substantially changed circumstances. 49 CFR 1152.25 (e)(4).

### SUMMARY OF ARGUMENT

6. Riffin will be filing a Petition to Reopen on or before April 30, 2010. If the Petition to Reopen is denied, Riffin will seek judicial review of the Board's decision.

7. In Riffin's Petition to Reopen, he will present new evidence of "shipper interest" in the form of letters from Baltimore County Councilperson Bryan McIntire, from Kenneth Holt, candidate for Baltimore County Executive, and from other interested parties if received prior to April 30, 2010. He will also argue that the Board's decision to exempt the proceeding was not supported by "substantial evidence," and was contrary to law. In addition, Riffin will argue that the Abandonment Authority will **leave a stranded segment!** [As Riffin was writing this Petition for Stay, he realized for the first time that the Line actually ends at Milepost 15.96 (south side Western Run), not at Milepost 15.44 (Beaver Dam Run). The Board has authorized abandonment only to Milepost 15.44. This issue was raised in **AB-290 (Sub-No. 237X)**, *Norfolk Southern Railway Company – Abandonment Exemption – in Baltimore County, MD*, filed December 14, 2005. In that proceeding the Board rejected NSR's Abandonment Exemption because it left a stranded segment (and failed to list all of the stations the Line went through). Since an abandonment request that leaves a stranded segment is against public policy, and since the Applicant, NSR, has the burden of proving its case and ensuring that its abandonment request is accurate, the Board is obligated to reopen the proceeding, vacate its abandonment authority,

then either grant NSR permission to amend its Petition, or reject NSR's Petition (perhaps with leave to file another corrected Petition).

### **LIKELIHOOD RIFFIN WILL PREVAIL ON MERITS**

8. The likelihood Riffin will prevail on the merits will be briefly noted. Riffin's Petition to Reopen will delve extensively into the likelihood Riffin will prevail on the merits. Riffin's Petition to Reopen is incorporated herein, as if fully reproduced herein.

9. **The abandonment authority leaves a stranded segment.** NSR, in its December 16, 2009 *Petition for Exemption*, STB Docket No. AB-290 (Sub-No. 311X) ("**NSR Petition**") represented that the Line extends to **Milepost UU 15.44**. The deed from Conrail to the MTA states that the Line extends to the south side of **Bridge 16**. See Exhibit 3-A, *James Riffin – §10902 Acquisition and Operation Application – Veneer Spur – In Baltimore County, MD*, filed May 6, 2009 ("**Riffin §10902 Application**"). NSR explained in footnote 6 of its *NSR Petition* that "Conrail or a predecessor had changed the milepost number at the beginning of the CIT but **continued to use references to the old milepost numbers along and at the end of the CIT.**" Exhibit 1-B of *Riffin's §10902 Application* (Exhibit C-5 of Mr. Williams Verified Statement) shows an Undergrade Bridge at **Milepost 15.96 (at Milepost 16 at Western Run)**. Exhibit 1-B also shows an undergrade bridge at **Milepost 15.44 (at Beaver Dam Run)**. Exhibit 1-B shows the **Veneer Spur** is located at **Milepost 15.05**.

10. The Conrail to MTA deed states that Conrail deeded that portion of the Line that lies between the (former) Baltimore City / Baltimore County line (at North Avenue, or near Milepost 0.5) and the south side of Bridge 16, located at Milepost 15.96. The Deed states Conrail retained a freight operating easement over this entire line. Consequently, the Line lies between North Avenue and Bridge 16, which is located at MP 15.96. NSR's Abandonment Petition sought authority to abandon that portion of the Line that lies between MP UU 1.0 and MP UU 15.44. For reasons unknown, NSR failed to include in its Abandonment Petition that portion of the Line that lies between MP 15.44 (at Beaver Dam Run) and MP 15.96 (at Western Run), a distance of 0.52 miles or 2,745 feet. The abandonment authority granted by the Board leaves a **2,745-foot stranded segment**, which is against public policy. In *Futurex Industries, Inc. v. I.C.C.*, 897 F.2d 866 at 870-873 (7<sup>th</sup> Cir. 1990), the court stated:

“We must, of course, be vigilant to detect and restrain the latter phenomenon [segmentation of a line] should it appear.” Quoted in *Caddo Antoine and Little Missouri R. Co. v. U.S.*, 95 F.3d 740 at 748 (8<sup>th</sup> Cir. 1996).

11. The Board’s decision granting NSR’s request to exempt the proceeding from the OFA procedures was based on the following conclusions, **none of which are supported by ‘substantial evidence’**:

A. Riffin is not a shipper on the Line. Op. at 4.

**Rebuttal:** The Board based this conclusion upon its **September 19, 2008** decision in *Maryland Transit Administration – Petition for Declaratory Order*, STB Finance Docket No. 34975, fn 19, Op. at 9. This conclusion was based on two statements made by Robert L. Williams on **April 11, 2007**. [¶¶ 7, 13 of Williams’ April 11, 2007 Verified Statement (MTA’s Exhibit 1)]. Mr. Williams testified that (¶7): “The line had been abandoned just to the north of that overpass ... Segments of the track north of there had been removed prior to MTA’s acquisition [of the Line]. The connection between the old rail line and the property now owned by James Riffin and alleged to be owned by Mark Downs has been gone since the 1940’s.” ¶13: “As of the MTA’s acquisition of the CIT in 1990, no active shippers existed north of York Road in Cockeysville and tracks north of York Road had been removed.”

In STB Docket No. AB-103 (Sub No. 21X), *The Kansas City Southern Railway Company – Abandonment Exemption – Line in Warren County, MS, In the Matter of a Request to Set Terms and Conditions*, Served February 22, 2008, on p.9, the Board stated:

“... a carrier may remove track, as long as no shipper seeks service and as long as the carrier is prepared to restore the track should it receive a request for service.”

The fact that the tracks north of York Road (north of MP 14.0) were removed, is of no import, since “... a carrier may remove track, as long as no shipper seeks service and as long as the carrier is prepared to restore the track should it receive a request for service.”

**Contrary** to Mr. Williams's statement that the "line had been abandoned just to the north of that overpass," [York Road overpass at MP 14.85 according to Mr. Williams Exhibit C-5] the line in fact **has not been abandoned** "north of that overpass." According to NSR's December 16, 2009 *Petition for Exemption*, STB Docket No. AB-290 (Sub-No. 311X) ("*NSR Petition*"), the Line extends to **Milepost UU 15.44**, which according to Mr. Williams Exhibit C-5, is some 0.59 miles (3,115 feet) **north of the York Road overpass**. [A copy of Mr. Williams Exhibit C-5 was appended as Riffin's Exhibit 3-A to *James Riffin – §10902 Acquisition and Operation Application – Veneer Spur – In Baltimore County, MD*, filed May 6, 2009 ("*Riffin §10902 Application*")].

On **April 11, 2007**, the date of Mr. Williams Verified Statement, Riffin **did not own the Veneer Spur**. Riffin's **Barrel Warehouse** property at 10919 York Road, is not immediately adjacent to the CIT. [As the Board has pointed out, Riffin's Barrel Warehouse property is about 200 feet north of the CIT right-of-way.] Consequently, the Board's September, 2008 conclusion that Riffin was not a shipper on the CIT in **2007**, had some basis (if one must own property immediately adjacent to a railroad right-of-way in order to be a shipper).

However, on **February 16, 2009** Riffin acquired the Veneer Spur, and on **May 6, 2009** filed a *§10902 Acquisition and Operation Application*, wherein he gave **sworn testimony** that **Riffin** wanted rail service in Cockeysville, and **sworn testimony** that a number of other businesses in Cockeysville wanted rail service, and would utilize Riffin's Veneer Spur to transload goods to / from railcars. When Riffin acquired the Veneer Spur, he became a *bona fide* shipper on the Line, and but for NSR's refusal to provide service, would have already received goods via rail on his Veneer Spur.

It should be pointed out that:

- a. The Board **has not ruled** on Riffin's *§10902 Acquisition and Operation Application* (it is being held in abeyance until the U.S. Court of Appeals, District of Columbia Circuit, Docket No. 09-1277, rules on Riffin's Petition for Review of the Board's September 15, 2009 decision in *James Riffin –*

*Petition for Declaratory Order*, STB Finance Docket No. 35245 (wherein the Board held Riffin was not a common carrier on his Allegany County line due to a lack of “suitable legal interest”).

- b. Riffin filed his Petitioner’s Brief in CADC No. 09-1277 on **April 14, 2010**, wherein he cited case authority holding that Riffin **does have** a “suitable legal interest” in his Allegany County line to be the common carrier on that line.
- c. In his *§10902 Acquisition and Operation Application*, Riffin provided sworn testimony regarding potential traffic on the Line and provided letters from Cockeysville shippers who have an interest in rail service.
- d. Riffin **has** “taken the basic step of contacting the carrier about rates and terms of service ... [and] demonstrated that the traffic would be likely in the coming year.” *Union Pacific Railroad Company – Discontinuance – in Utah County, Utah*, STB Docket No. AB-33 (Sub-No. 209) slip op. at 2-3 (STB served Jan. 2, 2008). Riffin has not only determined ‘rates and terms of service,’ he **has actually paid to have rail cars shipped to Cockeysville** (all of which NSR refused to deliver to Cockeysville).

B. “Riffin’s forecasts for potential freight rail traffic are too speculative to be given any significant weight. ... [Riffin] failed to submit any verified statements or other evidence from shippers requesting freight rail service.” Op. at 4.

**Rebuttal:** The Motion for Protective Order in *Riffin’s §10902 Application*, contains Riffin’s May 6, 2009 **six-page VERIFIED STATEMENT**, and contains **LETTERS from Cockeysville shippers stating that they have an interest in using rail service, if only it were available.**

C. The MTA “asserted the abandonment of freight rail service is critical to ensuring the future safety and success of the light rail transit system MTA operates over the Line.” Op. at 6.

**Rebuttal:** The above statement was made by **counsel** for the MTA. The statement was hearsay (which is admissible), but **does not** constitute ‘substantial evidence,’ since it **was not** supported by a sworn (or even an unsworn) statement by a MTA employee. “[U]nsworn hearsay, ... even when admitted in a nonjudicial hearing is of a low order of probative value.” *Jackson v. U.S.*, 428 F.2d 844, 847 (Court of Claims, 1970). “However, mere hearsay lacking sufficient assurance of its truthfulness is not substantial evidence to overcome the sworn testimony of a claimant.” *McKee v. U.S.*, 500 F.2d 525, 528 (Court of Claims, 1974). Sworn statements are “entitled to some consideration, although its weight is necessarily impaired by the fact that the affiant could not be presented for cross-examination, and, therefore, there has been no opportunity to determine his credibility.” *U.S. v. I.N.S.*, 499 F.2d 918, 921-922 (9<sup>th</sup> Cir. 1974). Hearsay evidence, “while admissible, could not form the sole basis of a decision.” *Clearfield Cheese Co., v. U.S.*, 308 F.Supp. 1072, 1076 (W.D.Mo., 1969). “Where there is evidence pro and con, the agency must weigh it and decide in accordance with the preponderance.” *Steadman v. SEC*, 450 U.S. 91, 101, 101 S.Ct. 999, 1007, 67 L.Ed.2d 69 (1981). “Mere uncorroborated hearsay or rumor does not constitute substantial evidence.” *Consolidated Edison Co. of New York v. NLRB*, 305 U.S. 197, 230, 59 S.Ct. 206, 217, 83 L.Ed. 126 (1938).

### **IRREPAIRABLE HARM**

12. Once abandonment authority has been granted, the Board loses jurisdiction over the Line. The MTA is not subject to the Board’s jurisdiction. The MTA has sovereign immunity, and cannot be sued, nor may it be compelled to pay monetary damages. **“Since the instant action is one against the State, money damages are not recoverable. The threat of unrecoverable economic loss does qualify as irreparable harm. See *Baker Elec. Coop., Inc. v. Chaske*, 28 F.3d 1466, 1473 (8<sup>th</sup> Cir. 1994).”** (Emphasis added.)

13. Once abandonment authority has been granted, the MTA may remove those portions of the Line that lie north of Milepost UU 13.0, and may remove the turnouts that service shippers located on the portion of the Line that the MTA uses for its light rail operations. If the MTA removes portions of the Line, and the grant of abandonment authority is vacated, then neither the Board nor Riffin can compel the MTA to replace whatever track infrastructure it has removed,

nor can Riffin seek monetary damages from the MTA, due to the MTA's sovereign immunity. Consequently, if the abandonment authority is not stayed, and the MTA removes track infrastructure, Riffin will have suffered irreparable harm.

### **BALANCE OF HARM**

14. If the abandonment authority is not stayed, and the MTA removes track infrastructure, then Riffin will have suffered irreparable harm. If the abandonment authority is stayed, NSR will suffer no harm:

- A. NSR does not own the right-of-way. Consequently, NSR will not suffer an economic harm due to delaying sale of the right-of-way, or due to being liable for property taxes associated with the Line;
- B. NSR is not responsible for maintenance of the line. Consequently NSR will suffer no economic harm due to maintenance expenses;
- C. NSR has not provided any service on the Line for the past five years, and adamantly refuses to provide service on the Line. The three shippers on the Line have agreed not to request rail service. Consequently, NSR will not incur any costs associated with operating on the Line.

### **PUBLIC INTEREST**

15. No actual notice of the proposed abandonment was provided to Harford County officials, Aberdeen Proving Ground officials, the citizens of Harford County, nor to the Baltimore County Council Persons. At the time notice was sent to James Smith, Baltimore County Executive, **May 28, 2009**, and on the date James Smith wrote his letter to NSR, **June 26, 2009**, the Harford County Incinerator project was not publicly known. The New Incinerator Project became publicly known on **November 18, 2009**, the date the *Aegis* published its first article about the incinerator. Consequently, neither the public nor relevant government officials have had an opportunity to investigate the impact abandonment of the CIT will have on Baltimore County's

ability to transport MSW from Cockeysville to APG. Given the extreme outcry of Harford County citizens to increased MSW-related truck traffic on Route 152, and APG's opposition to MSW-containing trucks approaching APG gates, the very viability of the new incinerator may rest on the ability of transporting MSW from Cockeysville to APG via rail, the only non-controversial mode of transportation available.

16. James Smith is a 'lame duck' County Executive. He is precluded by term limitations from running for a third term. Only one of the three candidates for Baltimore County Executive, Ken Holt, is aware of the impact abandonment of the CIT will have on Baltimore County's ability to transport MSW from Cockeysville to APG. Riffin provided Mr. Holt with a copy of the Board's April 5, 2010 Decision on Friday, April 16, 2010. After reading the Decision, he became concerned enough to write a letter to the Board. Bryan McIntire, the Baltimore County Council Person for Cockeysville, was provided with a copy of the Board's Decision on April 7, 2010. The following day he wrote a letter to the Baltimore County Attorney, asking for more information about the Incinerator project. On April 6, 2010, David Craig, the Howard County Executive, was provided with a copy of the Board's decision. During his conversation with Riffin, he stated that earlier that day COL Ortiz, APG's Garrison Commander, had told him that COL Ortiz "wanted all options to remain on the table, including the rail option." Due to Military regulations, COL Ortiz is prohibited from communicating with any Federal agency without approval from his superiors. Consequently, he cannot at this time write a letter to the Board.

17. Staying the abandonment authority would permit these government officials time to study the ramifications abandonment of the CIT will have on the Incinerator Project, then communicate their desires to the Board.

18. Appended hereto are copies of Bryan McIntire's and Ken Holt's letters.

19. WHEREFORE, for the foregoing reasons, Riffin would ask that the Board STAY the abandonment authority granted in its April 5, 2010 Decision in this proceeding until at least the Board has a chance to render its decision regarding Riffin's Petition to Reopen, and preferably until the U.S. Court of Appeals has rendered its decision on the merits on the Board's decision.

20. I, the undersigned, declare under the penalty of perjury that the information contained in this Petition for Stay, is true and correct to the best of my knowledge, information and belief. Further, I certify that I am qualified and authorized to file this Petition for Stay.

Executed on: April 19, 2010

Respectfully submitted,



James Riffin  
1941 Greenspring Drive  
Timonium, MD 21093  
(443) 414-6210

**CERTIFICATE OF SERVICE**

I hereby certify that on this 20<sup>th</sup> day of April, 2010, a copy of the foregoing Petition for Stay, was served by first class mail, postage prepaid, upon John V. Edwards, Senior General Attorney, Norfolk Southern Corporation, Law Department, Three Commercial Place, Norfolk, VA 23510-9241, and upon Charles A. Spitulnik, STE 800, 1001 Connecticut Avenue, NW, Washington, DC 20036, counsel for the MTA.

  
James Riffin

# Ken Holt

## 2010 ☆ ☆ ☆ ☆

BALTIMORE COUNTY EXECUTIVE

April 19, 2010

Cynthia Brown, Chief, Administrative Section  
Surface Transportation Board  
395 E Street SW  
Washington, DC 20423-0001

RE: STB Docket #AB290-311X

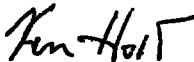
Dear Ms. Brown:

As a recently announced candidate for Baltimore County Executive, I have an interest in the abandonment of the rail line that serves the Cockeysville, MD Transfer Facility. I am concerned that any decision by the Board which permanently forecloses the ability to carry freight on the rail line could adversely affect the County.

I understand that plans are being developed to build a 1,500 tons per day incinerator on Aberdeen Proving Ground/Edgewood Arsenal. The incinerator will be reserved for Harford and Baltimore counties and one of the by-products would be the generation of steam to heat buildings at Edgewood Arsenal. The municipal solid waste from Baltimore County that will be delivered to the incinerator is projected to be transferred from the Cockeysville Texas waste processing facility. Presently, the waste can be transported by either truck or rail. However, if your decision eliminates the rail option, then I perceive a long-term adverse impact upon the road systems and communities through which the waste must travel.

I would appreciate the Board's re-opening the proceeding and reversing its decision to exempt the proceeding from the offer of financial assistance procedures. At least, stay your decision until after the November 2, 2010 election so that a new administration can evaluate the appropriateness of discontinuing freight capabilities.

Sincerely,



Kenneth C. Holt



BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: John Beverungen  
County Attorney

FROM: T. Bryan McIntire  
Councilman Third District

SUBJECT: constituent request for review

DATE: 8 April 2010

*T. Bryan McIntire*

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Attached please find a case referred to my office by Mr. James Riffen. I would appreciate your review and assessment of the situation and your advice as to any further action on his part or mine. Please note this issue is time sensitive as highlighted on Page one of Mr. Riffin's correspondence..

Thank you

887-3196  
887 5791 fax  
M.S. 2201

TBM/gm





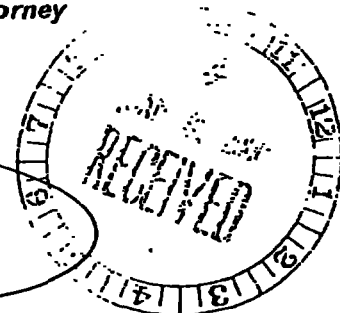
Norfolk Southern Corporation  
Law Department  
Three Commercial Place  
Norfolk, Virginia 23510-9241

Writer's Direct Dial Number

(757) 629-2759  
fax (757) 533-4872

*James R. Paschall*  
**James R. Paschall**  
**Senior General Attorney**

January 27, 2006



via fax (202) 565-9004  
and original and 10 copies via DHL Express

Honorable Vernon A. Williams, Secretary  
Surface Transportation Board  
1925 K Street, N.W.  
Washington, DC 20006.

Re: STB Docket No. AB-290 (Sub-No. 237X), Norfolk Southern Railway  
Company - Abandonment Exemption - in Baltimore County, MD

Dear Mr. Williams:

On January 3, 2006, the Board served notice in the subject proceeding that on December 14, 2005, Norfolk Southern Railway Company ("NSR") filed with the Board a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903-05 to abandon its freight operating rights and rail freight service over 12.8 miles of a line of railroad between milepost UU-1.0 at Baltimore, MD, and milepost UU-13.8 at Cockeysville, MD (the "Line"). NSR also seeks exemption from 49 U.S.C. 10904 [offer of financial assistance ("OFA") procedures] and 49 U.S.C. 10905 [public use conditions] because the Line's right-of-way is owned by the Maryland Department of Transportation ("MDOT"), which will continue to use the Line for the public purpose of providing light rail commuter passenger service through the Maryland Transit Administration ("MTA"). Replies to NSR's petition were due on or before January 23, 2006. The Board stated that a final decision in this proceeding will be issued by April 3, 2006.

James Riffin ("Riffin") filed a protest or opposition to the petition for exemption with the Board before the January 23, 2006 due date. Riffin's filing is dated January 13, 2006. NSR received a copy of the filing on January 17, 2006. The Board's regulations require that a petitioner's entire case be filed with the petition. In some cases and under certain circumstances, the Board has permitted petitioners to reply to protests, opposition statements or replies. This case presents circumstances in which an NSR response to Mr. Riffin's statement is necessary for the Board to decide this matter on a

the return of the cars to origin without charge (if necessary) and waiver of any accrued charges for storage of the cars should more than make up for any mistake NSR may have made with respect to the handling of the cars.

It is unfortunate that NSR did not handle the disposition of Mr. Riffin's cars more promptly. We believe our current and proposed further handling of the matter will appropriately correct any mishandling of the matter and will do so without attempting to place any expense on Mr. Riffin.

Mr. Riffin has not shown that his attempt to have these empty cars delivered to him at Cockeysville make him a customer on the Line or that he has any railroad freight traffic for NSR at all. He has presented no basis for the Board to conclude that he is an objecting shipper or on which the Board should deny or dismiss the petition.

Typographical Error In Milepost Number. It is plainly absurd for Mr. Riffin to suggest that a single and obvious typographical error with respect to the milepost at one end of the Line justifies dismissal of the petition. The milepost is stated correctly on the map and in numerous other places in the petition.

Abandonment of Additional Former Conrail Operating Rights. Mr. Riffin has raised one legitimate question that requires explanation to the Board and further action by NSR. It does not require either dismissal or denial of the subject petition, however.

In the subject petition, NSR has filed for an exemption from the prior approval requirements of the Act in order to abandon the remaining active right-of-way of the Cockeysville Branch that was acquired by NSR from Conrail in 1999 and on which all active shippers on the Line are located. Mr. Riffin questions whether the Line for some distance beyond Milepost UU-13.8 ever was formally abandoned. Upon further investigation, we have determined that Conrail's operating rights did extend at least a short distance beyond Milepost UU-13.8 and we can not find any record of the formal abandonment of this additional segment of right-of-way. There is no track on most or all of this segment but the right-of-way is intact and some track and material is still next to or along it even though it is not on the right-of-way in usable condition.

NSR proposes to rectify this situation by filing as promptly as possible a notice of exemption to abandon this long inactive railroad line segment along which no current or recent customers are or have been located and of which few people were even aware. No current shipper or other party will be injured or prejudiced by NSR filing this separate notice of exemption in the near future. Indeed, if anything, there will be a benefit to clearing up the status of the short segment of former line that was not previously formally abandoned. While NSR can not state that the notice of exemption can be filed and made effective coincident with the effective date of the petition, we will do our best to move this along quickly. Under the circumstances, we will embargo the entire line, as indicated above, and file the notice of exemption as soon as possible. We regret not being able to include this short segment in this petition, the need for a further filing and

LIBER 8506 MAR 307

E43-A

THIS DEED made this 1st day of May in the year One  
Thousand Nine Hundred and Ninety (1990),

RECEIVED  
BY CLERK  
NOTARY PUBLIC  
NOTARY NO. 102  
06/14/90

BY AND BETWEEN CONSOLIDATED RAIL CORPORATION,  
Corporation of the Commonwealth of Pennsylvania, having an  
office at Six Penn Center Plaza, Philadelphia, Pennsylvania,  
19103, hereinafter referred to as the Grantor, and  
TRANSIT ADMINISTRATION, an agency of the State of Maryland,  
having a mailing address of 300 West Lexington Street,  
Baltimore, Maryland 21201-3415, hereinafter referred to as  
the Grantee;

WITNESSETH, that in consideration of the sum of ONE  
DOLLAR (\$1.00) and other good and valuable consideration, the  
said Grantor does remise, release and forever quitclaim unto  
the said Grantee, the successors and assigns of the said  
Grantee, all right, title and interest of the said Grantor  
of, in and to,

ALL THAT CERTAIN property of Grantor, together with all  
the improvements thereon, being a portion of Grantor's  
Cockeysville Branch identified as Line Code 1224 in its  
corporate records and also being a part or portion of the  
former Northern Central Railway Company's line of railroad  
known as Penn Central Northern Central Branch and further  
identified as Line Code 1224 in the Recorder's Office of the  
City of Baltimore, Maryland in Liber 6231, at page 098, and  
which property is generally indicated on Grantor's Case Plan  
No. 69458-A, Valuation Map Nos. V-1/7 through V-1/16, which  
are attached hereto and made a part hereof as Attachment "A",  
and generally described as follows:

SITUATE in the County of Baltimore, Maryland, and  
BEGINNING at the Boundary Line between the City of Baltimore,  
Maryland and the County of Baltimore, Maryland at the James  
Falls Expressway City Line Bridge which is north of Mount  
Washington; and thence extending from said Boundary Line and  
continuing in a general northerly direction and passing  
through Bare Hills, Hollins, Ruxton, Ridewood, Lutherville,  
Pimothum, Pardonsa, Texas and Cockeysville and continuing to  
the ENDING at the southerly line of Bridge No. 16 at Railroad  
Station No. 816-56, which is further identified in the  
Baltimore County Recorder's Office in Liber 6231 at page 116  
and indicated on pages 116 and 117, which is south of the  
Ashland Section in Baltimore County, Maryland.

TOGETHER WITH, all tracks, materials, trestles, bridges,  
buildings and all other improvements and all the  
appurtenances belonging thereto.

BEING a part or portion of the same premises which  
Fairfax Leary, as Trustee of the Property of The Northern  
Central Railway Company, Debtor, by Conveyance Document No.  
MC-CRC-RP-1 dated March 31, 1976 and recorded on November 19,  
1980, in the Recorder's Office of Baltimore County, Maryland,

TRANSFER TAX NOT REQUIRED  
Baltimore County, Maryland  
Notary Public  
Notary No. 102  
06/14/90

RECEIVED FOR TRANSFER  
State Department of  
Assessments & Taxation  
Baltimore County

AGRICULTURAL TRANSFER TAX  
NOT APPLICABLE

SIGNATURE

DATE

5-22-90

EF-3-B

In Liber 6231 Page 0914, granted and conveyed unto Consolidated Rail Corporation.

EXCEPTING and RESERVING, therout and therefrom and unto the said Grantor, permanent, exclusive and assignable freight operating easements over the premises hereinbefore described for the purpose of providing rail freight service to present and future customers and otherwise fulfilling its common carrier obligations, said easement is subject to, governed by and exercised solely in accordance with the specific term and condition of the Operating Agreement between Grantor and Grantee.

EXCEPTING and RESERVING, therout and therefrom and unto the said Grantor, all right, title and interest in and to the land, track, track material and their appurtenances, being the Cookeysville Industrial Park Track, situate on the westerly side of the Cookeysville Industrial Track in the vicinity of Railroad Station #1000, and indicated on Grantor's Plan R.M.B-4373, in Cookeysville, Baltimore County, Maryland.

UNDER and SUBJECT, however, to (1) whatever rights the public may have to the use of any roads, alleys, bridges or streets crossing the premises herein described, (2) any streams, rivers, creeks and water ways passing under, across or through the premises herein described, and (3) any easements or agreements of record or otherwise affecting the land hereby conveyed, and to the state of facts which a personal inspection or accurate survey would disclose, and to any pipes, wires, poles, cables, culverts, drainage courses or systems and their appurtenances now existing and remaining in, on, under, over, across and through the premises herein described, together with the right to maintain, repair, renew, replace, use and remove same.

THIS INSTRUMENT is executed and delivered by Grantor, and is accepted by Grantee, subject to the covenants set forth below, which shall be deemed part of the consideration of this conveyance and which shall run with the land and be binding upon, and inure to the benefit of, the respective heirs, legal representatives, successors and assigns of Grantor and Grantee. Grantor hereby knowingly, willingly, and voluntarily waives the benefit of any rule, law, custom, or statute of the State of Maryland now or hereafter in force with respect to the covenants set forth below.

(1) Grantor shall not be liable or obligated to provide for or supply any type of utility service to Grantee.

(2) Grantee by the acceptance of this instrument, does hereby accept all existing and prospective responsibility for removal and/or restoration costs for any and all railroad bridges and grade crossings and their appurtenances that may be located on the line of railroad herein to be conveyed to the said Grantee, except as provided in the Operating Agreement between Grantor and Grantee.

TOGETHER with all and every the rights, alleys, ways, waters, privileges, appurtenances and advantages to the same belonging or in any wise appertaining, EXCEPTING and RESERVING and UNDER and SUBJECT and provided as aforesaid.

TO HAVE AND TO HOLD the premises above described and mentioned and hereby intended to be quitclaimed, together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said Grantee, the heirs or successors and assigns of the Grantee, EXCEPTING and RESERVING and UNDER and SUBJECT and provided as aforesaid.